

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, most of the Members of the House remember that I served as a prosecutor and a judge before I came to Congress. In fact, I served as a prosecutor with the acting Speaker this afternoon in the State of Ohio.

I hear the cry for legislation to deal with a situation that none of us want to happen, a situation where harm comes to a woman while she is pregnant. I hear the cry under the veil that we as Members of Congress have to stand up for pregnant women, and we have to do things so nothing happens to pregnant women.

But legislation is not the only answer to help pregnant women who are harmed. There are other ways in which we can help them. In fact, the Violence Against Women Act legislation could have helped women in this circumstance.

But be that as it may, as we are debating legislation, one of the jobs of a good legislator is to make sure that when we pass the legislation that we know it will stand up to judicial scrutiny. For those who are the proponents of this legislation, if they only look to it, they will recognize that it has problems to the extent that a judiciary would send this back.

As a prosecutor, I tried my darnedest to never take a case into court if I knew the law had a problem, because how could I explain to the victim that I prosecuted the case with the knowledge that the law had a problem that would not stand appellate scrutiny?

Let us look at why this legislation has some dilemmas. The provision or key phrase "child who is in utero" is vague. It makes it difficult to get before an appellate court and explain the vagueness of that phrase.

The legislation lacks a mens rea requirement, that one did not know or have reason to know that the woman who is the victim of the crime was pregnant.

And then even more importantly, the legislation lacks a predicate for the offense, that the crime against the woman be first established.

Now, to my colleagues who want to push for women who are harmed while they are pregnant, we offer them an alternative. We offer them an alternative that we as good legislators believe will withstand the scrutiny of an appellate court. We offer them an alternative that provides for the same penalty, that we believe is consistent with current law, regardless of what is happening in the other States.

As has previously been said, let us try and be 435 strong in favor of pregnant women who are harmed. Let us step up to the plate and say that this Congress, on a bipartisan basis, regardless of our view on choice, regardless of our view on many other issues, and we have not agreed on much since we have been here in this 107th Congress, but let us choose this legislation to agree

on; that regardless of our position, we will support the Lofgren alternative.

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I rise today in opposition to the Unborn Victims of Violence Act of 2001. This bill will be the first, the first in the Federal statutes, to give separate legal status to a fetus.

The proponents of the legislation claim that they are protecting the mother, but that is not their true intention. If it were their true intention, why would the anti-choice right-to-life groups support the bill, and why would the domestic violence victims advocacy groups oppose the bill?

If people were so concerned about violence against pregnant women, why are not those pregnant women even mentioned in the bill?

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If the issue is about violence to women, why do the proponents of the bill not support the Lofgren substitute, which is concerned about the woman and her fetus? Mr. Speaker, the majority of Americans are pro-choice and they depend on this Congress to protect a woman's right to choose while simultaneously working to make abortion a rare occurrence. The women of this country count on us as legislators to craft Federal policies that are really intended to protect their health and well-being. They rely on us to pass legislation that will protect their reproductive choices. Women depend on us to know the difference between legislation that is truly intended to protect them and a poorly disguised vehicle designed to reopen the debate on *Roe v. Wade*.

We are not fooled by this legislation, Mr. Speaker, and, frankly, neither are the women we represent. If Members of this House really care about taking steps to protect pregnant women and to punish the terrible perpetrators who mercilessly beat them, then we will all join together, pro-life and pro-choice, and join hands across the aisle to vote for the Lofgren substitute.

The Lofgren substitute actually, as we will hear, provides greater levels of punishment to the perpetrators of the heinous crime of harming a pregnant woman. In fact, there is only one difference between the substitute and the underlying bill; and that underlying difference reveals the true goal of H.R. 503. The underlying bill creates a Federal criminal offense that provides a pregnancy from conception to birth with a legal status separate from that of the mother.

Regardless of what we are hearing today from proponents of this legislation, there is only one reason to support this new criminal offense over the Lofgren substitute, and that is to take the first step of defending a fetus at any stage of development as a person.

If the supporters of this legislation want to debate the merits of abortion,

I think we should do it out in the open. They should be embarrassed about cloaking their true intent in an issue. They should be embarrassed about cloaking their true intent on an issue that we all agree upon and that we care deeply about, and that is protecting pregnant women from violence.

But the fact is, this is intentional; and the reason is there is a great reluctance on the part of the proponents of this bill to openly debate the issue of a woman's right to choose in this Chamber. Opponents of the right to choose know they are out of step with the majority of the American public, and so they are working sideways to begin to erode that right in our statutes.

We keep hearing that those who support this bill talk about two victims. But what they are omitting is the fact that this act does not mention women. So, in fact, the bill is not about two victims at all.

Mr. Speaker, the Lofgren substitute improves the bill. It is a good alternative. It punishes the perpetrators. I urge adoption of the amendment; and if the amendment is not adopted, I urge defeat of the ill-intentioned legislation.

Mr. CONYERS. Mr. Speaker, it is my pleasure to yield the balance of my time to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE), a ranking subcommittee member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member for yielding me this time.

Mr. Speaker, let me quickly discuss something that is extremely private and extremely important. When I first came to this Congress, we started discussing this concept called partial-birth abortion.

As a new Member, I was unaware of a procedure that was out of line of a decision between mother and physician and God. But all of a sudden, this Congress began to raise its head about something called partial-birth abortion. It simply was a procedure that doctors were using to save the lives of mothers who wanted to have children.

We come here today, as the New York Times has said, with another scheme very personal for me, because I have had pregnancies that have survived and those that have not. I wish I did not have to come to the floor of the House to discuss this.

But I believe the Lofgren substitute speaks to the concern that we have as Americans. How dare you assault a woman who is pregnant. How dare you abuse her. How dare you take her as girlfriend or wife or friend and abuse her and cause the loss of that pregnancy. The Lofgren substitute answers that concern. If that woman is injured that results in an injury to that pregnancy or a death, that means that that pregnancy does not come to term, you will be faulted and convicted, 20 years or maximum life.

This is a scheme. Year after year after year, this is an attempt to violate